



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/673,636

09/29/2003

Gary Vacon

160-007

1124

34845

7590

09/24/2008

Anderson Gorecki & Manaras LLP

33 NAGOG PARK

ACTON, MA 01720

EXAMINER

NGUYEN, KHAI MINH

ART UNIT

PAPER NUMBER

2617

NOTIFICATION DATE

DELIVERY MODE

09/24/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

handerson@smmalaw.com
officeadmin@smmalaw.com
cmorrisette@smmalaw.com

Office Action Summary	Application No. 10/673,636	Applicant(s) VACON ET AL.	
	Examiner KHAI M. NGUYEN	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,7,9,14,16 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7,14 and 21 is/are allowed.
- 6) ☒ Claim(s) 2,9 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/17/2008 have been fully considered but they are not persuasive.

Regarding claims 2, 9 and 16, Applicant argues of the remarks, that Jaszewski does not disclose, teach, or suggest "(1) an indicator operable to provide an external indication of the signal strength directly from the first access point to a human being, the indication being perceivable by the human being and also being indicative of the signal strength of the second access point; (2) providing on the access point an external indication of the signal strength that is perceptible by a human being, the external indication provided directly from the first access point to the human being; and (3) logic for causing a human-perceptible external indication of the signal strength, the external indication provided directly from the first wireless device to the human being."

The Examiner respectfully disagrees with Applicant's argument because the current claim language is broad enough to be met by Jaszewski. Examiner's believed that claimed features can be found in the references.

First, Jaszewski clearly teaches (1) an indicator (fig.4, proximity indicator 426) operable to provide an external indication of the signal strength directly from the first access point to a human being (col.10, lines 24-44 and the network administrator can quickly see it, col.10, lines 27-30), the indication being perceivable by the human being (fig.4. proximity indicator, an indication of the proximity of two other access point, the network administrator can quickly see it, col.10, lines 27-30) and also being indicative of

Art Unit: 2617

the signal strength of the second access point (table 1 (col.9, lines 15-25), col.10, lines 24-44 , see difference access point).

Second, Jaszewski clearly teaches (2) providing on the access point an external indication of the signal strength that is perceptible by a human being (fig.4. proximity indicator, an indication of the proximity of two other access point, the network administrator can quickly see it, col.10, lines 27-30), the external indication provided directly from the first access point to the human being (table 1 (col.9, lines 15-25), col.10, lines 24-44, see difference access point).

Final, Jaszewski clearly teaches (3) logic for causing a human-perceptible (colors) external indication of the signal strength (fig.4. proximity indicator, an indication of the proximity of two other access point, the network administrator can quickly see it, col.10, lines 27-30), the external indication provided directly from the first wireless device to the human being (table 1 (col.9, lines 15-25), col.10, lines 24-44, see difference access point).

Application/Control Number: 10/673,636
Art Unit: 2617

Page 4

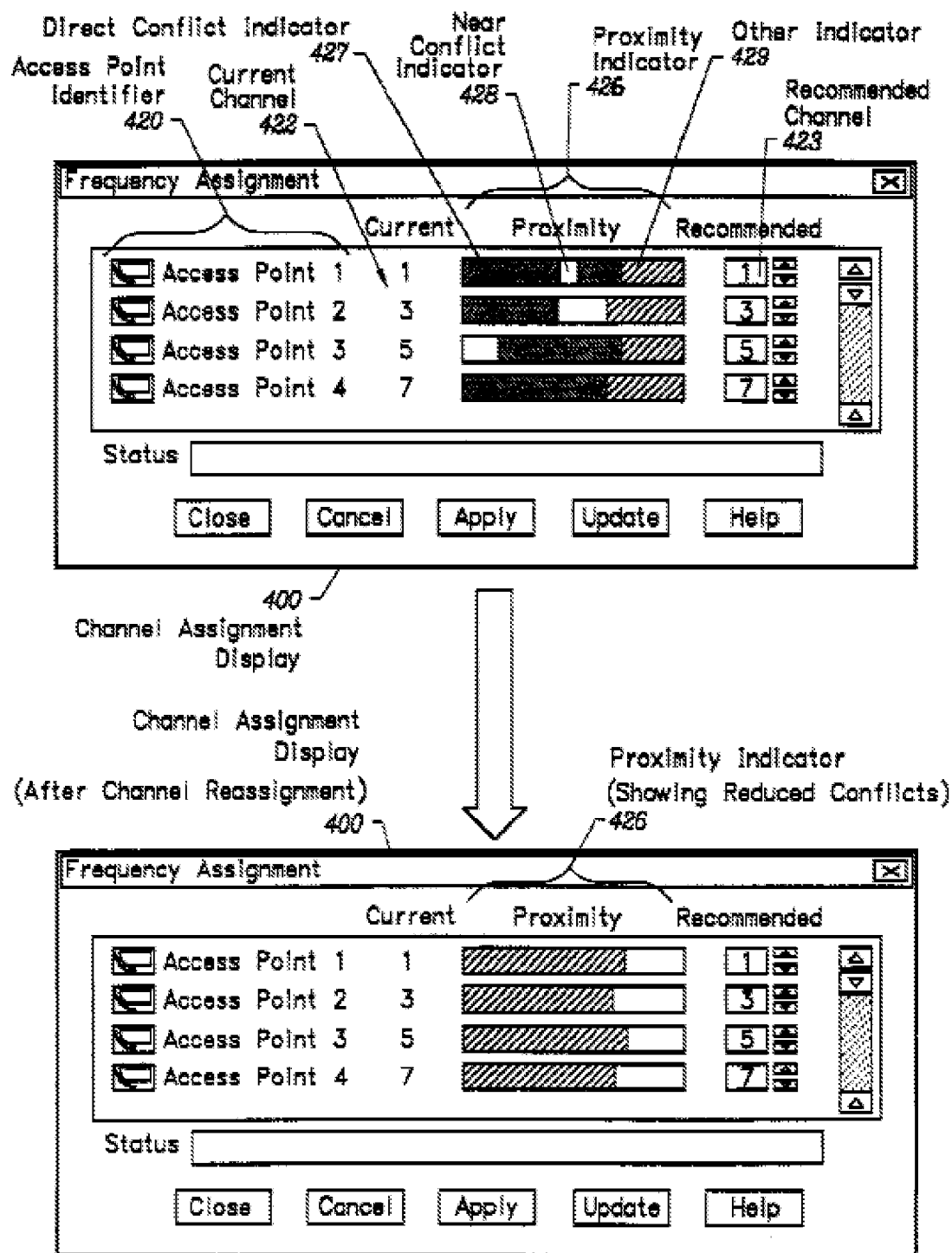


FIG. 4

TABLE 1

Access Point 1 111		Access Point 2 112		Access Point 3 113		Access Point 4 114	
AP #	Signal Strength	AP #	Signal Strength	AP #	Signal Strength	AP #	Signal Strength
1 (3)	X	1 (3)	B	1 (3)	1	1 (3)	4
2 (3)	B	2 (3)	X	2 (3)	4	2 (3)	0
3 (4)	2	3 (4)	4	3 (4)	X	3 (4)	5
4 (7)	5	4 (7)	0	4 (7)	9	4 (7)	X

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 9, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Jaszewski et al. (U.S.Pat-5933420)

Regarding claim 2, Jaszewski teaches a first access point (fig.1, access points) operable to provide wireless network access to client devices (fig 1, network nodes) coupled to a wireless network, the first access point comprising:

a receiver operable to detect a signal from a second access point (fig.3, table 1 (col.9, lines 15-25), col.8, line 56 to col.9, line 13), distinguish that signal from other signals (table 1(col.9, lines 15-25)), and measure strength of the signal (col.10, lines 24-44, signal strength); and

an indicator (fig.4, proximity indicator 426) operable to provide an external indication of the strength directly from the first access point to a human being (col.10, lines 24-44), the indication being perceivable by human being (fig.4. proximity indicator,

an indication of the proximity of two other access point, the network administrator can quickly see it, col.10, lines 27-30) and also indication of the signal strength of the second access point (table 1 (col.9, lines 15-25), col.10, lines 24-44 , see difference access point);

whereby proximity of the second access point (table 1 (col.9, lines 15-25)) relative to the first access point can be estimated by the human being directly from reference to the first access point without knowing the precise geographic location of the second access point (fig.4. an indication of the proximity of two other access point, the network administrator can quickly see it, col.10, lines 27-30, table 1 (col.9, lines 15-25), col.10, lines 24-44 , see difference access point).

Regarding claim 9, Jaszewski teaches a method executed by the first access point for facilitating deployment of the first access point comprising the steps of:

receiving a plurality of signals (fig.3, table 1, col.8, line 56 to col.9, line 13);
distinguishing, in the plurality of signals (col.10, lines 24-44), a signal from a second access point (table 1);

determining a signal strength of the signal from the second access point (fig.3, table 1, col.8, line 56 to col.9, line 13); and

providing on the access point an external indication of the signal strength that is perceptible by human being (fig.4. proximity indicator, an indication of the proximity of two other access point, the network administrator can quickly see it, col.10, lines 27-30), the external indication provided directly from the first access point to the human being (table 1 (col.9, lines 15-25), col.10, lines 24-44, see difference access point),

whereby the first access point's proximity relative to the second access point can be estimated by the human being directly from reference to the first access point without knowing the precise geographic location of the location of the second access point (fig.4. an indication of the proximity of two other access point, the network administrator can quickly see it, col.10, lines 27-30, table 1 (col.9, lines 15-25), col.10, lines 24-44 , see difference access point).

Regarding claim 16, Jaszewski teaches a program product comprising a computer readable medium having embodied therein a computer program for storing data, the computer program comprising:

logic operable to detect a signal from an access point (fig.3, table 1, col.8, line 56 to col.9, line 13), distinguish that signal from other signals (table 1), and measure strength of the signal (col.10, lines 24-44); and

logic for causing a human-perceptible (colors) external indication of the signal strength (fig.4. proximity indicator, an indication of the proximity of two other access point, the network administrator can quickly see it, col.10, lines 27-30), the external indication provided directly from the first access point to the human being (table 1 (col.9, lines 15-25), col.10, lines 24-44 , see difference access point),

whereby the relative proximity of the access point can be estimated by the human being directly from reference to the first wireless device without knowing the precise geographic location of the second wireless device (fig.4. an indication of the proximity of two other access point, the network administrator can quickly see it, col.10, lines 27-30, table 1 (col.9, lines 15-25), col.10, lines 24-44, see difference access point).

Allowable Subject Matter

3. Claims 7, 14, and 21 are allowed.

The following is a statement of reason for the indication of allowance: As the applicant stated in the remarks of the amendment filed on 1/15/2008.

Applicant's independent claims 7, 14 and 21: The present invention is directed to an access point operable to provide wireless network access to client devices coupled to a wireless network, and a controller capable of automatically choosing one of a plurality of radio frequencies on which to operate, said controller choosing said frequency after evaluating frequencies on which other access points operate, the independent claim identifies the patentably distinct feature "a) logic for picking a frequency; b) logic for transmitting on said frequency; c) logic for receiving on said frequency; d) logic for evaluating whether other access points are heard on said frequency; e) logic for reducing transmission power; f) logic for evaluating whether said other access points are still heard on said frequency; g) logic for storing the transmission power at which no other access points are heard; h) logic for picking a next frequency as the frequency and repeating steps b-g until all of the plurality of frequencies has been picked; i) logic for comparing said stored transmission powers; j) logic for choosing for operation the frequency associated with the highest stored transmission power". Applicant's independent claims 7, 14 and 21 comprise a particular combination of elements, which is neither taught nor-suggested by prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submission should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAI M. NGUYEN whose telephone number is (571)272-7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harper, Vincent P. can be reached on 571.272.7605. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VINCENT P. HARPER/
Supervisory Patent Examiner, Art Unit 2617

/Khai M Nguyen/
Examiner, Art Unit 2617

9/16/2008